

## FINDS MARKETS RUN TWEED RING FASHION

Cropsey Says City Officials  
Were Never So Lawless  
Since Boss's Day.

## GRANTS AN INJUNCTION

Restrains Collectors From  
Disposing of Funds Ex-  
cept to Treasury.

## TRICK, SAYS HIRSHFIELD

Public Will Pay the Bill for  
'This Bit of Politics,'  
He Declares.

Declaring that not since the days of the notorious "Bill" Tweed has there been such lawlessness by city officials, Justice James C. Cropsey, in the Brooklyn Supreme Court, yesterday issued an injunction restraining officials of the Department of Public

Markets from disposing of collections from peddlers in any manner except to the sinking fund of the city. Justice Cropsey characterized the present administration of the Department of Public Markets as "lawless."

Charles H. Levy of 32 Court street, Brooklyn, counsel to the Pushcart Peddlers League, the members of which do business in the Manhattan and Bushwick markets in the Williamsburg section, made the application for the injunction. In his argument Mr. Levy told the court that the members of the organization were willing to pay the fee of \$1 a week but demanded that the collectors be compelled to turn the money into the treasury of the city.

### Justice Cropsey's Opinion.

"Upon the papers presented in this case it is admitted that the administration of the Department of Public Markets under the present city administration has been, so far as the matters complained of are concerned, lawless," said Justice Cropsey in his opinion. "The statute authorizes the Commissioner of that department to issue permits to pushcart peddlers to stand on certain public streets and to charge therefor a fee not exceeding \$1 a week for each vehicle (Laws 1922, Chap. 823). The fact that such fees have been collected in not the basis of this complaint. The charge here is founded upon the assertion that not one penny of the large sums collected has ever found its way into the city treasury.

"The Charter clearly and unmistakably provides that all fees received by any public officer shall be the property of the city and that no officer except city marshals shall receive to his own use any fees collected. All sums received as fees from any source shall be paid over weekly without deduction by

the officers or department receiving them to the Chamberlain (Section 1550, Charter). And any officer of the city or person employed in its service who shall wilfully violate the foregoing provisions or who knowingly permits other persons to do so is guilty of a crime (Section 1551). And in addition to the provisions of the Charter, although of course not adding any legal weight thereto, there was at the times complained of an ordinance of the city on this subject amended as late as May 7, 1921. That provided, 'All fees for permits in connection with market privileges shall be paid to the Department of Public Markets and all such fees shall be paid into the sinking fund for the redemption of the city debt' (Sec. 1, Art. 1, Chap. 15, Code of Ordinances).

### "Wilfully Disregarded Statute."

"Notwithstanding these definite requirements of statute all the officials concerned with this matter have wilfully disregarded them. Within a few days after this action was commenced a proposed amended ordinance was offered at a meeting of the Board of Aldermen and after some days it was passed and received the approval of the Mayor. This was done evidently with the view of attempting to legalize the theretofore wholly illegal practice of retaining all

the fees collected and paying none of them into the city treasury.

"The amended ordinance reads: 'All fees for permits in connection with market privileges shall be paid to the Department of Public Markets; the cost of supervision shall be paid therefrom and the balance thereof shall be paid into the sinking fund for the redemption of the city debt.' One need not be a gifted forecaster to predict that the city treasury would not be greatly swelled by any such 'balance.' But any one who has any knowledge of law or who has been associated with the city administration must know that this amended ordinance is wholly illegal.

"The Board of Aldermen has power to enact ordinances, but only when they are not inconsistent with the provisions of the Charter, to which reference has already been made, requiring all fees collected to be paid into the city treasury. This amended ordinance, which would permit the use of the fees for the payment of the cost of supervision, is in conflict with the statute. But it is claimed on behalf of the city officials that the fees collected are used to pay the supervisors and other employees. 'There is no satisfactory and convincing proof of this in the papers submitted on this motion, but even if it were true such use of the fees is pro-

hibited by law. Section 1550 of the charter provides that every city official except the marshals shall be paid by a fixed salary.' And Section 1541 prohibits any department from incurring expense unless an appropriation shall have been previously made covering it. In addition to these general provisions, which are applicable to all officials, there is the special provision applicable to the supervisors and employees in question here that they shall receive such compensation as shall be within the appropriations made therefor by the appropriating body of such city' (Sec. 200-A of the Laws and Markets Law, added by Chap. 625, Laws of 1922).

### Not Private Plunder.

"It is absolutely illegal to pay the supervisors or other employees out of the fees collected. It is not surprising that some people are anxious to have the present system continue. The papers show that \$200,000 will be collected yearly in these fees from the pushcart peddlers. It might well be pleasing to some not to be required to pay this money into the city treasury, but to use it in the 'cost of supervision.' But the statute which authorized the collection of these fees was intended to be a source of public profit

and not of private plunder. The lawlessness displayed in this matter has not been exceeded since the days of Tweed. Motion granted with \$10 costs."

### Says It Means No Salaries.

"I have not had time to study a copy of the injunction," said Commissioner of Accounts David Hirschfield.

"but I understand it prevents the Markets Department from disposing of any of the money collected by them from the peddlers. This means that the supervisors will be unable to collect their salaries or pay their assistants and laborers."

"We know that if they do not get any pay the supervisors, assistants and

laborers will not work. The result will be that there will be a resumption of the practice of collecting from the peddlers for the police and others who are supposed to give the peddlers protection. If these collections are made, food prices will again jump up and the public will have to pay for this bit of political trickery."

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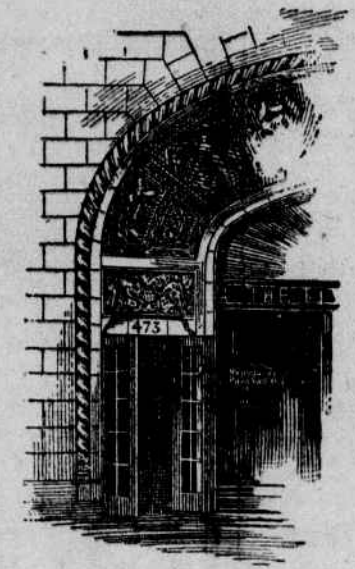
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See Pages 9 and 15 for other Hearn advertising.

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